

CHARLES W. BOUSTANY, JR., MD
7TH DISTRICT, LOUISIANA

LAFAYETTE DISTRICT OFFICE:

800 LAFAYETTE STREET
SUITE 1400
LAFAYETTE, LA 70501
(337) 235-6322

LAKE CHARLES DISTRICT OFFICE:

ONE LAKESHORE DRIVE
SUITE 1135
LAKE CHARLES, LA 70629
(337) 433-1747



Congress of the United States
House of Representatives
Washington, DC 20515-0304

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEES:
OVERSIGHT, *RANKING MEMBER*
INCOME SECURITY AND FAMILY SUPPORT

WASHINGTON, DC OFFICE:

1117 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-2031

December 3, 2009

The Honorable James L. Oberstar
Chairman
Committee on Transportation
and Infrastructure
2165 Rayburn HOB
Washington, DC 20515

The Honorable John L. Mica
Ranking Member
Committee on Transportation
and Infrastructure
2163 Rayburn HOB
Washington, DC 20515

Dear Chairman Oberstar and Ranking Member Mica:

I am writing to respectfully request that the following legislative proposals and projects be included in the Water Resources Development Act of 2010. I appreciate consideration of the following projects:

1) Southwest Coastal Louisiana Hurricane Protection, LA (111-LA-7th-001)

A study of hurricane/flood protection and coastal restoration needs in Southwest Louisiana is underway. The current Corps of Engineers' schedule indicates a number of years before projects are ready for construction. Section 5007(6) of WRDA 2007 authorizes the Corps to expedite completion of the study and to expedite construction of feasible projects in Southwest Louisiana. Many project solutions in Southwest Louisiana have already been identified for implementation. Rather than moving toward implementation of these solutions, all projects are being delayed until the entire report is completed.

The purpose of this request is to authorize the Corps of Engineers to construct features of the Southwest Louisiana coastal protection plan as they are identified rather than waiting for completion of the entire report.

2) Harbor Maintenance Trust Fund

The Harbor Maintenance Trust Fund was authorized primarily to pay for the Army Corps of Engineers operations and maintenance dredging. The Trust Fund currently takes in more money than it spends on dredging operations nationwide, thus a surplus exists. Despite this surplus, some regions in the nation have maintenance dredging backlogs totaling hundreds of millions of dollars, which has significant impact on our national economy and military readiness. In Louisiana, millions of dollars of dredging funds are being diverted by the Corps to address emergency needs as they arise. This problem could be addressed if Congress legislatively enacts a "firewall" around the Trust Fund, or a similar mechanism, to ensure the funds are only used for dredging purposes. Congress has set precedent in this area with its treatment of the Highway Trust Fund.

The purpose of this request is to include legislative language in the bill to ensure funds collected in the Harbor Maintenance Trust Fund are used for dredging purposes and the current surplus is spent to address the current backlog in dredging projects nationwide.

Proposed language attached.

3) Calcasieu River & Pass – In-kind Services (111-LA-7th-011)

The Water Resources and Development Act of 2007 allowed local sponsors to provide in-kind services to be credited against their local cost-share for Corps projects. When the final Corps regulations were written, the language was drawn very narrowly and most existing projects were excluded. The purpose of this request is authorize the non-federal sponsor to provide in-kind services for all or a portion of its local cost share on the Calcasieu River and Pass Project, LA. Proposed language attached.

4) Calcasieu River & Pass – Dredged Material (111-LA-7th-012)

Corps of Engineers regulations act as a disincentive for landowners to accept material dredged from the Calcasieu Ship Channel to be used for wetlands creation. The value of the land so created is not included in determining the value of a mitigation bank established using wetlands created in this manner. The value of the mitigation bank on land created through the beneficial use of dredge material is solely determined based on the additional funds invested by the landowner for such things as planting vegetation, cutting waterways, etc. However, should the landowner decide to use land created from dredge material for a different purpose, i.e. a subdivision, the landowner enjoys the full value of the land created from dredge material. Thus, there is a federal incentive for landowners not to build wetlands while federal and state goals are to rebuild Louisiana's coastline using dredged material.

The purpose of this request is to include language allowing the full value of land created from dredge material to be included in the value of mitigation banks in the vicinity of the Calcasieu Ship Channel. Proposed language attached.

5) AGMAC Channel (111-LA-7th-004)

Section 1001(25) of WRDA 2007 authorized the \$131M project to deepen the Port of Iberia access channel and to use the dredge material to build a hurricane protection structure in Vermilion Parish. The Corps now estimates that the total project cost will exceed the authorized level and could delay the navigation/protection project.

The purpose of this request is to authorize a waiver of the cap that will prohibit the project from moving forward, as well as direct the Corps of Engineers to place the dredge material in the same areas as directed under WRDA 2007 or to stockpile the material until a solution can be reached on providing hurricane protection for Vermilion Parish. The authorization cap is established by Section 902 of WRDA 1986 to the authorization level included in Section 1001(25) of WRDA 2007 (\$131,250,000).

6) Lake Charles Riverfront and Redevelopment (111-LA-7th-010)

The Army Corps of Engineers has provided assistance to the City of Lake Charles under the Planning Assistance to the States (PAS) program to develop the Lake Charles Riverfront Parkway and Redevelopment Plan (2007). The purpose of the project is to assist the City to facilitate ecological and environmental restoration, economic development, and revitalization of its Calcasieu River waterfront corridor.

The purpose of this request is to authorize \$50 million and direct the Corps of Engineers to implement the ecosystem restoration and recreation components of the Lake Charles Riverfront Parkway and Redevelopment Plan. *Proposed language attached.*

7) Ruth Canal Fresh Water Diversion, LA (111-LA-7th-005)

The Ruth Canal Fresh Water Diversion project diverts water through the Ruth Canal to the Vermilion River by opening a control structure which is located near the Bayou Teche end of the canal. Following Hurricane Rita there was a period of 13 months with no rainfall runoff into the Vermilion River. The only fresh water that entered the coastal parishes was delivered by Teche-Vermilion Water District. This fresh water was used to flush salt left by Rita from farm land and marshes and make them productive once again. If the farm land in the coastal parishes is not kept productive, protection levees will be abandoned resulting in land loss and moving of the coastline inland.

The purpose of this request is to authorize the Corps of Engineers to survey the canal and structure to make recommendations for improving current systems in order to maintain, or perhaps increase the amount of fresh water that is diverted in the coastal area. This effort should be fully coordinated with ongoing efforts in the region and the comprehensive study authorized by Section 7002 of WRDA 2007.

8) Chenier Plain Reforestation, LA (111-LA-7th-007)

The Reforestation of the Chenier Plain is the primary component in the freshwater and sediment management of the plain. Section 5007(6) of WRDA 2007 authorizes the construction of the Southwest Louisiana/Chenier Plain Restoration/Protection program. Moving forward on this identified project feature as soon as possible is critical to the sustainability of this region.

The purpose of this request is to authorize \$60 million and direct the Corps of Engineers to proceed to implementation of the Chenier Plain Reforestation under Section 5007(6) of WRDA 2007 (The project is already authorized under Section 5007 of WRDA 2007).

9) Calcasieu Lock Replacement, LA (111-LA-7th-006)

Replacement and multi-use of the Calcasieu Lock complex is needed. The Calcasieu Lock is a bottleneck on the GIWW system in Louisiana, causing delays in transportation and interstate commerce.

The purpose of this request is to authorize \$110 million for construction of a new Calcasieu Lock and the development of a plan to operate and manage the lock complex in a manner that will benefit navigation, agriculture, flood control and ecosystem restoration.

10) Sabine-Neches Waterway Navigation (111-LA-7th-013)

Deepening the Sabine-Neches Waterway (SNWW) to 48 feet is pivotal to the Southeast Texas and Southwest Louisiana petrochemical industry and will benefit the nation as one of the nation's most critical energy arteries.

The purpose of this request is to authorize \$1,400,000,000 for the SNWW deepening project. *Proposed language attached.*

11) Non-Federal Cost Share (111-LA-7th-015)

Section 7007(b) of WRDA 2007 allows the non-federal sponsor to use Coastal Impact Assistance Program (CIAP), Gulf of Mexico Energy Security Act or other eligible federal funds as the non-federal cost share. Though the WRDA 07 bill was enacted over two years ago, the Corps has been unable to approve Louisiana's use of these funds to cover its cost share obligations.

The purpose of this request is authorize the Corps of Engineers to accept CIAP funds or monies associated with the Gulf of Mexico Energy Security Act as the non-federal cost share without further approval. This provision will be consistent with the intent of both federal acts.

12) USACE Dredges – Pilot Project (111-LA-7th-003)

The current practice of USACE dredges in a "ready reserve" status provides an opportunity for the state of Louisiana and the Corps to partner in improving the application of dredged material currently wasted in large measure in concert with regular operations and maintenance practices on federally authorized navigation channels. A pilot program or study utilizing these dredges, when they are not in use, could answer important financial and safety questions related to the use of hopper dredge pump out and create valuable wetlands acreage in the process.

The purpose of this request is to authorize \$35 million for the Corps of Engineers to conduct a hopper dredge pump out demonstration program using Corps of Engineers or private sector dredges to improve technical and safety issues associated with the use of this technology to restore coastal wetlands. The provision should specify that if Corps of Engineers dredges are used, the demonstration program shall not count against otherwise authorized uses of the dredges in ready reserve status.

13) Louisiana Coastal Area (LCA) Programmatic (111-LA-7th-014)

There is no other federal project development and implementation process like currently employed by the Corps of Engineers. The current federal water resources project development and implementation process takes 40 years from conception to completion. Louisiana does not have the luxury of time to restore and protect its deltaic plain. The implementation of coastal sustainability efforts in Louisiana would be greatly expedited with an umbrella authorization, or "programmatic authorization", in place between the state and federal resource agencies.

The purpose of this request is to authorize the Task Force established pursuant to Section 7004 of WRDA 2007 to develop proposed criteria for the establishment of a programmatic authorization pilot program related to coastal community sustainability in Louisiana. The programmatic authorization would serve as a model for technical, social, policy and legal solutions for the adaptation of coastal communities around the world as it relates to resilience and projected sea level rise.

14) USACE Deadlines

Federal law enacted through WRDA 2007 requires the Corps of Engineers to meet a number of deadlines associated with hurricane protection, ecosystem restoration, and navigation. To date, the Corps has ignored the law and Congressional direction by inexplicably missing every single deadline related to Louisiana in the bill so far. Over 10 deadlines have passed –

some in excess of a year. The Corps has been provided all of the funding necessary to meet these statutory requirements. The Corps' delays have sizable consequences – such as failing to address significant vulnerabilities and continuing to allow hundreds of square miles of coastline to erode.

The purpose of this request is to require the Corps of Engineers be sanctioned \$100,000 per day from their salaries and expenses accounts for each day a statutory deadline is missed or ignored.

15) Louisiana Coastal Area (LCA) – Beneficial use of Dredged Material Clarification (111-LA-7th-009)

This component of the Louisiana Coastal Area authorization was authorized pursuant to Section 7006(d) of WRDA 2007. It is designed to provide a mechanism for the beneficial use of dredge material in those unique cases where the incremental cost of beneficially using dredge material would be considered outside of the federal standard for the placement of dredge material or when opportunities for beneficial use are associated with private dredging activities.

The chief's report on the Louisiana Coastal Area program submitted to Congress indicates that the cost share for the program is 75 percent federal and 25 percent non-federal; however, the Corps determined that the cost share should be 65 percent federal and 35 percent non-federal. The Corps determined that the higher non-federal share was necessary due to changes in the Corps' other beneficial use of dredge material program authorized by Section 204 of WRDA 1986.

The purpose of this request is to clarify Section 7006(d) of WRDA 2007 to explicitly affirm the intent of Congress that the cost share of the LCA beneficial use of dredge material program is 25 percent non-federal as was envisioned in the report of the Chief of Engineers for the Louisiana Coastal Area submitted to Congress.

16) Louisiana Coastal Area (LCA) – Science & Technology (111-LA-7th-002)

Section 7006(a) of the WRDA 2007 established a science and technology program associated with the restoration of Louisiana's coast. Following Hurricanes Katrina and Rita, numerous expert reports were developed to determine the cause of catastrophic failures in Louisiana. One recommendation that was consistent throughout the reports was the recommendation to take a system-based approach to coastal sustainability in Louisiana. Specifically, the reports suggested that coastal restoration and hurricane protection efforts be integrated. Further, the science and technology effort should be housed and administered out of Louisiana rather than other areas of the nation.

The purpose of this request is to raise the authorization level to \$200 million, and to:

- expand the authorization for the science and technology program to include all forms of coastal sustainability (i.e. hurricane/flood protection, coastal restoration, building standards, zoning ordinances, elevation of homes, etc.) rather than being limited to coastal restoration as is currently the case.
- require the program be housed and administered in Louisiana (it is currently being administered out of Mississippi).

- require the Corps and the non-federal sponsor to enter into a cooperative endeavor agreement that requires to the maximum extent practicable the use of the coastal science consortium to carry out the work of the science and technology program.
- provide for the State of Louisiana and other non-federal parties, within the authorization, to receive credit against the non-federal cost share for work performed in kind for any project or activity authorized in Title 7 of WRDA 2007.

17) **Louisiana Historic Oyster Reef Restoration (111-LA-7th-008)**

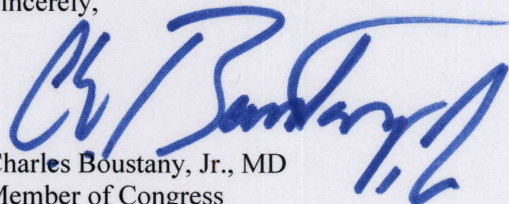
Historically in Louisiana, expansive, dense oyster reef complexes existed throughout the coastal area providing both an economic opportunity and wave-breaking action that helped to insulate the shoreline from direct forces of the Gulf of Mexico. Strategic reestablishment of these reef complexes would have multiple benefits in the coastal area of Louisiana, not the least of which include wave breaks and improved water quality.

The purpose of this request is to authorize \$75 million for the restoration of historic oyster reefs off the coast of Louisiana to provide for stabilization of the coastal area and other benefits.

Enclosed you will find a Congressional Earmark Certification for each project I have requested, as well as a copy of the receipt.

If I can provide you with further information, please feel free to contact Ryan Evans in my office at x52031.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Boustany, Jr.", with a stylized flourish at the end.

Charles Boustany, Jr., MD
Member of Congress

Water Resources Development Act of 2010
Legislative Language Proposals

2.) Harbor Maintenance Trust Fund:

- SEC. --FUNDING FOR HARBOR MAINTENANCE PROGRAMS.
 - (a) HARBOR MAINTENANCE TRUST FUND GUARANTEE.—
 - (1) IN GENERAL.—The total budget resources made available from the Harbor Maintenance Trust Fund each fiscal year pursuant to section 9505(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Harbor Maintenance Trust Fund) shall be equal to the level of receipts plus interest credited to the Harbor Maintenance Trust Fund for that fiscal year. Such amounts may be used only for harbor maintenance programs listed in subsection (b)(1).
 - (2) GUARANTEE.—No funds may be appropriated for harbor maintenance programs listed in subsection (b)(1) unless the amount described in paragraph (1) has been provided.
 - (b) DEFINITIONS.—In this section, the following definitions apply:
 - (1) TOTAL BUDGET RESOURCES.-- The term “total budget resources” means the total amount made available from the Harbor Maintenance Trust Fund for a fiscal year for budget accounts for which appropriations are provided pursuant to section 210 (a) of the Water Resources Development Act of 1986 (Public Law 99-662), as amended, and section 9505(c) of the Internal Revenue Code of 1986.
 - (2) LEVEL OF RECEIPTS PLUS INTEREST.—The term “level of receipts plus interest” means the level of taxes and interest credited to the Harbor Maintenance Trust Fund under section 9505 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President’s budget baseline projection as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.
 - (c) ENFORCEMENT OF GUARANTEES.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause total budget resources in a fiscal year for harbor maintenance programs described in subsection (b)(1) for such fiscal year to be less than the amount required by subsection (a)(1) for that fiscal year.

3.) Calcasieu River & Pass – In-kind Services:

- The project for navigation, Calcasieu River and Pass, Louisiana Project, authorized by Act of Congress in Public Law No. 392 on August 26, 1937, and further modified by Acts of March 2, 1945 and July 24, 1946, with further modifications to the Project that were authorized by Act of Congress in Public Law No. 86-645 on July 14, 1960, is further modified to provide the authority to the Secretary to accept and provide credit against required contributions for in-

kind services provided by the non-federal sponsor. Such in-kind services include, but are not limited to, planning, design, construction, and management services, as the Secretary determines to be compatible with, and necessary for, the project.

4.) Calcasieu River & Pass – Dredged Material:

- The project for navigation, Calcasieu River and Pass, Louisiana Project, authorized by Act of Congress in Public Law No. 392 on August 26, 1937, and further modified by Acts of March 2, 1945 and July 24, 1946, with further modifications to the Project that were authorized by Act of Congress in Public Law No. 86-645 on July 14, 1960, is further modified to provide that the provisions of any law or regulation to the contrary notwithstanding, including, but not limited to, 33 CFR 332.3(j) (2) and 40 CFR 230.93(j) (2), the full value of marsh created with material dredged from the Calcasieu River and Pass navigation project by the U.S. Army Corps of Engineers using federal funds appropriated for Operations and Maintenance of the Project can be used for the purpose of generating compensatory mitigation credits for activities authorized by Department of the Army permits.

6.) Lake Charles Riverfront and Redevelopment:

- *LAKE CHARLES, LOUISIANA.*
(a) IN GENERAL. The Secretary may participate in the ecosystem restoration and recreation components of the Lake Charles Riverfront Parkway and Redevelopment Plan, 2007. (b) COORDINATION. In carrying out this section, the Secretary shall coordinate with appropriate representatives in the vicinity of Lake Charles, Louisiana, including the City of Lake Charles, and Calcasieu Parish. (c) APPROPRIATIONS. There is authorized to be appropriated \$50,000,000 to carry out this section.

10.) Sabine-Neches Waterway Navigation:

- *SABINE-NECHES WATERWAY, TEXAS & LOUISIANA*
(a) IN GENERAL. - The project for navigation and other allied purposes, Sabine-Neches Waterway, Texas provided a favorable Report is issued by the Chief of Engineers, at a total cost of \$1,400,000,000.00 with an estimated Federal cost of \$882,000,000.00 and estimated non-Federal cost of \$518,000,000.00. The non-Federal cost required under this clause may be met in the form of services, materials, supplies, and other in-kind contributions.